



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JS-6

WILLIAM BUSH, ADMINISTRATOR OF THE DONALD BUSH ESTATE,)	CASE NO. CV 15-9089-SJO (PJWx)
)	
Plaintiff,)	ORDER DENYING DEFENDANT'S MOTION
)	TO PROCEED IN <i>FORMA PAUPERIS</i> AND
v.)	REMANDING CASE TO SUPERIOR COURT
)	
VICTOR BROOKS, CRYSTAL BROOKS,)	
DOES 1 TO 10, INCLUSIVE)	
)	
Defendants.)	

Before the Court are Defendants Victor and Crystal Brooks' motions to proceed *in forma pauperis* ("IFP"). For the following reasons, the motions are DENIED and the action is remanded to the Los Angeles Superior Court.

On November 23, 2015, Defendants, proceeding *pro se*, lodged a Notice of Removal, accompanied by requests to proceed IFP, seeking to remove this unlawful detainer action from state court. The Court has denied the IFP applications under separate cover. To prevent the action from remaining in jurisdictional limbo, however, the Court also issues this Order, remanding the case back to the Superior Court.

Simply stated, because Plaintiff could not have brought this action in federal court in the first place, there is no basis to

1 remove it. To the extent that Defendants are seeking to federalize
2 the case by raising federal claims in their defense, they cannot do
3 so. The Court considers only the claims raised in the Complaint to
4 determine whether there is federal jurisdiction and does not take into
5 account any federal defenses or counterclaims Defendants raised (or
6 could have raised). *Phillips Petroleum Co. v. Texaco, Inc.*, 415 U.S.
7 125, 127 (1974) (explaining federal questions must be disclosed on the
8 face of the complaint as a defendant's reply is not a basis for
9 federal jurisdiction); *Moore-Thomas v. Alaska Airlines, Inc.*, 553 F.3d
10 1241, 1244 (9th Cir. 2009) (explaining federal law defense does not
11 create federal jurisdiction if the complaint on its face does not
12 present federal question).

13 Plaintiff's unlawful detainer action does not raise a federal
14 question. See 28 U.S.C. § 1331. Additionally, the amount in
15 controversy is less than \$10,000 and, according to Defendants,
16 Plaintiff and Defendants are California residents. See Civil Cover
17 Sheet at 1. Thus, there is no diversity jurisdiction. See 28 U.S.C.
18 § 1332. For these reasons, the case is subject to remand. 28 U.S.C.
19 § 1441(a); *Exxon Mobil Corp v. Allapattah Svcs., Inc.*, 545 U.S. 546,
20 563 (2005).

21 Accordingly, IT IS ORDERED that: (1) this matter is REMANDED to
22 the Superior Court of California, Long Beach Courthouse, 275 Magnolia
23 Ave., Long Beach, California, 90802, (2) the clerk shall send a
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1 certified copy of this Order to the Superior Court and serve copies on
2 the parties.

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4 IT IS SO ORDERED.

5 DATED: 12/16, 2015
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9 S. JAMES OTERO
UNITED STATES DISTRICT JUDGE

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15 Presented by:

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18 PATRICK J. WALSH
19 UNITED STATES MAGISTRATE JUDGE

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